

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY  
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UNITED STATES OF AMERICA,

-against-

JOSE MUNOZ,

Defendant.

ORDER

**12 Cr. 31 (VM)**

JOSE MUNOZ,

Petitioner,

-against-

UNITED STATES OF AMERICA,

Defendant.

**20 Civ. 8436 (VM)**

**VICTOR MARRERO, United States District Judge.**

On August 2, 2020, defendant-petitioner Jose Munoz ("Munoz") filed a motion pursuant to 28 U.S.C. § 2255 to vacate, set aside, or correct his sentence, based on allegations of ineffective assistance of counsel ("Motion"). (See Cr. Dkt. No. 1769; Civ. Dkt. No. 1.) On October 24, 2020, the Court determined that the Motion should not be summarily denied, and that the Government should respond within 60 days and Munoz should file his reply 30 days after being served with the Government's response. (See Cr. Dkt. No. 1770; Civ. Dkt. No. 2.)

After several extensions of the Government's time to respond, on June 9, 2021, the Government requested the Court enter a

proposed Order directing Munoz to execute and return an "Attorney-Client Privilege Waiver (Informed Consent)" form ("Waiver Form"). (See Cr. Dkt. No. 1790; Civ. Dkt. No. 13.) The Government requested the Order so that it could obtain an affidavit from Munoz's former counsel, Mark DeMarco ("DeMarco"), responding to Munoz's allegations of ineffective assistance of counsel.

The Court granted the Government's proposed Order, and directed the Government to respond to the Motion within 30 days of receiving DeMarco's affidavit. (See Cr. Dkt. No. 1791, 1792; Civ. Dkt. No. 14, 15.) Munoz executed the Waiver Form on July 21, 2021. (See Cr. Dkt. No. 1796; Civ. Dkt. No. 18.) Since then, there has been no record of any proceedings, or filings of any papers or correspondence with the Court.

**IT IS HEREBY ORDERED** that within five (5) days, Munoz's former counsel, Mark DeMarco, is directed to submit an affidavit responding to Munoz's allegations of ineffective assistance of counsel.

**SO ORDERED.**

Dated: April 20, 2022  
New York, New York



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Victor Marrero  
U.S.D.J.